



South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

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### **House Week in Review**

After 4 days of debate, the House on Thursday afternoon gave second reading to H. 3546, a bill which restructures state government. The vote was 102-13. Debate on this bill was spirited. Supporters stressed that the bill would bring accountability and efficiency to state government, while opponents claimed that the bill gives undue power to the governor, hurts rural areas, and would not result in savings.

While restructuring took up the vast majority of time of the House last week, the House still was able to give approval to several measures, among them H. 3057, which defines the crime of carjacking and requires imprisonment of up to 25 years depending on the severity of the crime, and H. 3112, which revises penalties for drug trafficking.

By special order, the House will begin debate on H. 3610, the general appropriations bill, on Monday, March 15. This bill calls for approximately \$3.7 billion in state spending.

**Legislative Update, March 16, 1993**

**Bills Introduced**  
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The following bills were introduced in the House of Representatives last month. Not all bills introduced in the House are featured here. The bills are arranged according to the standing committee to which the legislation was referred.

**Agriculture, Natural Resources and Environmental Affairs.**

**Environmental Compliance History Requirements** (H. 3646, Rep. Harvin). This bill would allow the Department of Health and Environmental Control to review and consider the environmental compliance history of an applicant or person seeking a permit from the Department. This review would assist the Department in making a determination to (1) issue, reissue, deny, revoke, modify or suspend a permit or interim status; (2) prohibit the transfer of a permit or the transfer or achievement of interim status; or (3) prohibit a change in ownership or controlling interest in an existing facility.

To assist in making a determination regarding the environmental compliance history of an applicant or person, the Department could require the applicant or person to file a disclosure statement with the Department. The bill lists information which must be included in this statement. If information contained in the statement or otherwise available to the Department indicates the presence of multiple past environmental administrative actions or judgments of liability or convictions, the Department could conduct a background investigation of the applicant or person, request a criminal history record search at the state and federal level by the State Law Enforcement Division (SLED), and request assistance of other agencies and services in conducting the investigation. The bill



authorizes the Department to collect fees in conducting this investigation and on behalf of SLED if it conducts a criminal history record search.

The Department also could require a permit holder or person who has not earlier filed a disclosure statement to file a statement with the application for permit renewal or upon a change of ownership or controlling interest in an existing facility, or upon the achievement or transfer of interim status of a hazardous waste treatment, storage or disposal facility. This and other information could be used by the Department in determining the status of the permit, ownership change or transfer sought by the applicant. The bill lists conditions under which the Department may deny, revoke or suspend permits or refuse requests under these provisions and lists mitigating factors the Department may consider in making its determination.

These provisions would be in addition to, and an expansion of, any existing statutory or regulatory authority the Department possesses to review environmental compliance history.

**Revisions to Erosion Control and Sediment Act** (H. 3670, Rep. Wright). This bill revises definitions under the Erosion and Sediment Reduction Act and states that property of school districts also is subject to provisions of the act. Under this bill, activities regulated under the South Carolina Stormwater Management and Sediment Reduction Act would not be covered under the Erosion Control and Sediment Act. The list of organizations which could be represented on the State Advisory Council on Erosion and Sediment Reduction would be expanded so as to include the South Carolina Coastal Council, Trout Unlimited, the Sierra Club, the South Carolina Wildlife Foundation and the South Carolina Audubon Society. The bill also states that terms of office of Council members would be coterminous with the governor, and vacancies occurring on the Council would be filled by the governor upon the advice of the agency or organization whose representative created the vacancy. The governor would appoint a chairman of the Council from its members.

Also under this bill, the duties of the Council would be expanded so as to include evaluation of the need for additional regulations for erosion and sediment reduction and stormwater management. Requirements pertaining to conservation districts are deleted. As examples, conservation districts no longer would be required to appoint a local advisory Council on Erosion and Sediment Reduction, nor would districts be required to submit to the South Carolina Land Resources Conservation Commission reports on the progress in erosion and sediment control and stormwater management in the district.

#### **Education and Public Works**

**Railroad Preservation and Revitalization** (H. 3677, Rep. Jaskwich). This bill designates the Department of Highways and



Public Transportation as the state agency principally responsible for preserving railroad rights-of-way for future use. This authority would include, but not be limited to, the power to apply for and receive state, federal or other funds for rail corridor preservation and revitalization programs. The Department's authority under these provisions, however, would not preclude another governmental entity, public or private organization or individual from entering into a contract or agreement concerning use or preservation of railroad rights-of-way or from applying or receiving funds for rail corridor preservation and revitalization programs.

The Department would develop and submit a state railroad corridor preservation and revitalization plan to the House Education and Public Works Committee and Senate Transportation Committee, with the plan submitted to these committees by July 1, 1994. The bill lists activities and studies the Department must conduct in developing this plan. The Department would have a preferential right to acquire railroad rights-of-way and easements proposed for abandonment or discontinuance of service, for the purpose of preservation for present and future transportation uses. In acquiring these rights-of-way, the Department could permit interim compatible public uses of these easements. This preferential right would apply to all property in South Carolina acquired for the purpose of operating a railroad on the property and for which authorization is being sought by the Interstate Commerce Commission (ICC) for abandonment of the line or to discontinue service. The bill provides a procedure for the Department to exercise this right and prohibits the property owner from disposing of the railroad property unless the Department releases its right to purchase the property or fails to exercise this right. The Department would be allowed to acquire property which is part of a railroad line to carry out these provisions, whether the acquisition is through purchase, gift, condemnation or other method. As applied under these provisions, condemnation would pertain only to railroad lines for which the property owner has notified the Department that it has sought or is seeking authorization from the ICC for abandonment or discontinuance of service.

The bill requires that railroad right-of-way which is held for right-of-way preservation or is the subject of a right-of-way preservation agreement must be considered held for railway use and cannot be considered abandoned for the purpose of any law. However, a right-of-way preservation agreement could provide for interim public use of the right-of-way provided this use is compatible with maintaining the right-of-way for other future rail purposes.

The Department, beginning July 1, 1995 and thereafter annually, would submit a report to the legislative committees listed above concerning the Department's railroad preservation and revitalization activities and progress.

**Rural Street Lighting Systems** (H. 3698, Rep. Rudnick). This bill would require the Department of Highways and Public



Transportation, at the request of a local governing body, to provide for a street lighting system in rural areas represented by that local governing body. The system would be installed if needed for traffic safety and for the safety and security of residents and their property. The local governing body would determine where a lighting system is needed.

**Seating for Elderly at Offices Which Register and License Motor Vehicles** (H. 3699, Rep. Rudnick). This bill would require the Department of Highways and Public Transportation to furnish adequate seating for persons who, because of their age or infirmity, are unable to stand for a long period of time at offices which register and license motor vehicles.

**Dangerous Railroad Crossings** (H. 3700, Rep. Rudnick). This bill would authorize the placement of white lines across roads which have a stop sign marking a dangerous railroad crossing. The bill also would require railroad companies to operate and maintain flashing signals at railroad crossings located within one-half mile of a church or school.

**School Choice** (H. 3704, Rep. Jaskwhich). This bill would require the State Board of Education to develop 3 parental choice educational models, which would be implemented by the State Department of Education. These 3 models are: (1) Public/Private School choice for at-risk students; (2) Nonresident Public School Choice; and (3) Intradistrict Public School Choice. The State Department of Education would evaluate these model choice programs after a 3-year pilot testing period. The bill lists details which must be included in the evaluation, which when finished would be given to the House Education and Public Works Committee and Senate Education Committee. After the 3-year test period, these 3 choice programs could no longer be used without the authorization, by act or joint resolution, of the General Assembly.

Public/Private School choice for at-risk students would be a model under which the parent of an at-risk student could request from the district school board a certificate to be used at a participating school, whether public or private, for educational services. The bill defines "at-risk" student. Each public school in a district would become a participating school, while private schools would have the option of participating as well. The value of the certificate would be set at 100 percent of the pupil expenditure supplied by the State based upon the Educational Finance Act weighting, but no certificate could be redeemed for more than the amount of tuition and fees regularly charged by the participating school providing the educational services. Participating schools would enter into an agreement with the State Department of Education, and the bill lists features which must be included in the agreement. Participating schools would be required to provide assurance to the district school board that they are in compliance with appropriate measures prohibiting discrimination.

Nonresident Public School Choice would be a model under which



a pupil could attend a public school in a district outside the district where the student resides. No school district would be required to participate in this choice program. The bill provides an application process for a student seeking to enroll under this choice program and requires the school board of a participating district to adopt by resolution standards for acceptance and rejection of applications. The bill specifies requirements these standards may or may not include. Districts participating under this model would not be required to add teachers or classrooms or in any way exceed current requirements and standards under existing law, nor would districts be required to provide transportation for the nonresident seeking to enroll in the district's school. Also under this model, no student would be allowed to transfer to a nonresident district where the percentage for enrollment for the student's race, plus or minus 5 percent, exceeds that percentage in his resident district. This transfer also would not be allowed if it would conflict with a desegregation court order.

The third model, intradistrict choice, would be a program in which a choice plan is implemented within a district. This choice program could include magnet schools, alternative schools, or controlled choice plans, and would have to include postsecondary options. The bill lists conditions under which opportunities for students to take college courses simultaneously for high school graduation and college degree credit must be offered. A participating school would not be required, though it could offer, to provide transportation for a child residing outside of the participating school's resident school district.

### Judiciary

**Expansion of Jurisdiction of State Grand Jury** (H. 3644, Rep. Harwell). This bill would expand the jurisdiction of the State Grand Jury so as to allow it to investigate environmental offenses.

**Omnibus Environmental Penalties Act** (H. 3645, Rep. Harwell). This bill stiffens penalties for environmental offenses committed in South Carolina so as to change several offenses from misdemeanors to felonies and make it a felony to commit an environmental offense which places another person in imminent danger of serious bodily injury or death.

Also under this bill, the conditions under which a firm could be debarred or suspended from consideration for award of contracts under the State's procurement code would expand to include a conviction for criminal violation of state or federal environmental laws. The bill also distinguishes littering for commercial and noncommercial purposes, so as to provide that anyone unlawfully disposing of waste in any quantity for commercial purposes, and in a quantity exceeding 500 pounds or 100 cubic feet for noncommercial purposes, is guilty of a felony. The maximum imprisonment which could be imposed on anyone convicted of this felony would increase from 1 year to 5 years. The bill defines "commercial purpose" and



states that for a second or subsequent conviction for this felony, the maximum fines and terms of imprisonment are doubled.

Anyone who knowingly violates the state's Safe Drinking Water, Hazardous Waste, Infectious Waste or Pollution Control Act(s) would be guilty of a felony, instead of a misdemeanor, with a first conviction resulting in a fine not exceeding \$50,000, imprisonment not exceeding 5 years, or both, for each day of violation. A second or subsequent conviction would result in the maximum fine and imprisonment being doubled. Anyone knowingly violating the provisions of these acts and who knowingly thereby places another person in imminent danger of death or serious bodily injury, upon conviction, would be fined not more than \$250,000, imprisoned up to 15 years, or both. If the person is not an individual, but rather a corporation or other legal entity, the maximum fine would be \$1 million.

The bill also lists offenses under the State's Hazardous Waste Management and Infectious Waste Acts which would be misdemeanors, and a person convicted of a misdemeanor would be fined not more than \$50,000, imprisoned not more than 2 years, or both, for each day of violation. If the conviction is for a second or subsequent offense, the person would be guilty of a felony, and the maximum fine would be doubled, while the maximum imprisonment would be 5 years.

As pertains to the State's Pollution Control Act, the bill states that a person guilty of the misdemeanor of negligently violating the Act and convicted a second or subsequent time for the misdemeanor must be fined not more than \$5,000, imprisoned not more than 3 years, or both.

The bill defines "serious bodily injury" and how it is determined that a person knowingly placed another person in imminent danger of death or serious bodily injury. Criminal penalties imposed under these provisions as pertain to the State's Safe Drinking Water, Hazardous Waste Management, Infectious Waste and Pollution Control Acts would be in addition to any civil or administrative penalty or sanction otherwise authorized by law.

**Filing for Primaries** (H. 3647, Rep. Boan). This bill clarifies state law so as to require that filing fees for all candidates filing to run in any primary but a municipal primary must be transmitted by the respective political parties to the State Election Commission.

**Application for Divorce** (H. 3650, Rep. Kirsh). This joint resolution seeks to amend the Constitution so as to allow divorce after a continuous separation of 6 months. instead of the current period of 1 year.

**Special Election Dates** (H. 3658, Rep. D. Smith). This bill changes the date for conducting a special election to fill a vacancy in office from the 18th Tuesday to the 14th Tuesday after the vacancy occurs.



**Exemption from Liability for Emergency Care** (H. 3659, Rep. Chamblee). This bill would exempt unpaid volunteer firefighters of a lawfully and regularly organized fire department from liability for rendering emergency care at the scene of an accident or emergency.

**Representation in Out-of-State Child Support Order Proceedings** (H. 3672, Rep. Shissias). This bill provides that with regard to a proceeding concerning an out-of-state child support proceeding, if the State acts as the rendering or registering state, the prosecuting attorney, at the request of the Court, Department of Social Services or local child welfare agency, represents the State, as opposed to the obligee, in the proceeding.

**Representation in Civil Enforcement Action of Child Support Order** (H. 3673, Rep. Shissias). This bill provides that with regard to a civil enforcement action of a state child support order, if the State is initiating the action, the prosecuting attorney, at the request of the court, Department of Social Services or local welfare official, would represent the State, instead of the obligee, in the proceeding.

**Support Orders** (H. 3674, Rep. Shissias). This bill revises the definition of support orders, as pertains to income-withholding to enforce support orders, so as to state this order is an order of a court which provides for periodic payments of funds for the support of a child, or maintenance of a spouse, or former spouse and support of a child. The bill also states that this order includes an order providing modification of support payment of an arrearage or reimbursement of support.

**Removal of Members of State Boards and Commissions** (H. 3681, Rep. Harrelson). This bill list procedures for removal of members of boards and commissions. Under this bill, members appointed by the governor could only be removed by the governor, while members appointed by the governor with the advice and consent of the Senate could only be removed with the concurrence of half of the Senate and the governor. Members who are confirmed or elected by the General Assembly could only be removed by one-half plus five members of the General Assembly.

**Disclosure of Juvenile Records to School Officials** (H. 3684, Rep. Fair). This bill would require a law enforcement agency to release information about a juvenile's criminal activity to the superintendent of the school district in which the juvenile is enrolled or is seeking to be enrolled. This information must include adjudicated offenses and offenses which are pending or under consideration. A request for this information must be in writing from the school district superintendent and must include the juvenile's name, address and social security number. School officials must submit a request for information about a student to the district superintendent. This request must state that the



student's presence at the school poses or tends to pose a threat to the physical safety and well-being of other persons at the school. If necessary, the superintendent could request specific information about the school official's request. Requests for information to the superintendent and to the law enforcement agency would be kept separately from records maintained on students.

**Release of Authority to County Governing Bodies** (H. 3687, Rep. Gonzales). This bill states that if any provision of law requires action on the part of a county legislative delegation concerning appointments to or approval of a budget for a county board, commission, district or special purpose district, excluding school districts, responsibility for this required action could be delegated to the governing body of the county. In order for this responsibility to be transferred, a majority of the county legislative delegation would have to sign a written resolution.

**Disclosure of Juvenile Records** (H. 3688, Rep. Gonzales). This bill states that the official juvenile records of the Family Court and Department of Youth Services would be open and available for inspection under the same circumstances as adult criminal records if the juvenile's record includes disposition of an offense which would have been a crime if committed by an adult. The juvenile's record(s) would remain open for 4 years following the last date the juvenile is adjudicated delinquent, provided, however, that the juvenile does not commit another offense for which he is adjudicated delinquent within the 4-year period.

**Size of Juries** (H. 3691, Rep. Harrison). This joint resolution seeks to amend the Constitution so as to provide that petit juries of the circuit court and juries of other courts must consist of the number of jurors provided by law. Currently the Constitution requires that petit juries of the circuit court consist of 12 members.

**Revision of Definition under Adult Health Care Consent Act** (H. 3695, Rep. Rudnick). This bill revises the definition of "health care" as pertains to the state's Adult Health Care Consent Act so as to include health procedures which provide nutrition and hydration through medically or surgically implanted tubes.

**Penalty for Pointing Firearm** (H. 3696, Rep. Rudnick). This bill states that a person who commits the offense of pointing a gun at another person would be guilty of a misdemeanor and upon conviction would be imprisoned for up to 3 years. Currently a person convicted of this offense is punished by fine or imprisonment in the discretion of the court.

**Firearms Regulations and Penalties** (H. 3697, Rep. Rudnick). Under this bill, the penalties for a person convicted of the felony of unlawful sale or possession of a pistol would increase. The maximum fine which could be imposed which could be imposed would



increase from \$2,000 to \$10,000, while the maximum imprisonment would increase from 2 years to 10 years. The bill also changes the applicable penalty(ies) imposed on someone convicted of unlawfully carrying a pistol. In this case, the maximum fine which could be imposed would increase from \$1,000 to \$5,000 and the maximum sentence permitted would increase from 1 year to 5 years.

The bill also provides for a 7-day waiting period before a person may purchase a pistol from a dealer. The person's application to make a purchase would be forwarded to the State Law Enforcement Division (SLED), and a law enforcement agency, upon receiving the information, would conduct a background check of the applicant. If SLED notifies the dealer that the person is ineligible under state law to possess a firearm, then the dealer would be prohibited from delivering the pistol to the applicant.

A person violating state law governing the regulation of pistols, if convicted of this felony, would be fined a maximum of \$10,000, instead of a maximum of \$2,000, or imprisoned up to 10 years, instead of a maximum of 2 years, or both.

**Unlawful Duplication of Keys** (H. 3701, Rep. Rudnick). This bill would make it unlawful for anyone to make a copy of a key marked "do not copy" or containing similar prohibitory language. A person violating these provisions would be guilty of a misdemeanor and upon conviction would be fined up to \$100, imprisoned up to 30 days, or both. Each copy made of a key under these provisions would constitute a separate violation.

## **Labor, Commerce and Industry**

**Suspension of Licenses and Abolishment of Reinsurance Facility** (H. 3656, Rep. D. Smith). This bill would allow the Chief Insurance Commissioner to suspend for up to 30 days the driver's license of a person who has caused 2 accidents in a single calendar year. This suspension would be authorized if that person in each accident (a) received a ticket and pled guilty or nolo contendere or was convicted or forfeited bond, or (b) was not issued a ticket but signed a statement admitting fault and indicating he would have pled guilty or nolo contendere had he been issued a ticket. The bill lists a procedure for appealing the suspension and conditions under which it could be waived or shortened. This suspension would be supplemental to other laws providing for license suspension and appeal procedures.

No auto insurer would be allowed to raise an insured's premium based on the insured's driving record or accident record or combination of both, or remove an insured's safe driver discount, if the insured has passed a safe driver course and (a) has had no traffic tickets for which he has received a ticket and was convicted, pled guilty or nolo contendere, or (b) forfeited bond in the preceding 10 years prior to the 3-year period of having the combination of accidents of traffic tickets as listed above.

A person's driver's license could be suspended for 6 months if



the driver is convicted of, or pleads guilty or nolo contendere to, 5 traffic offenses in a 1-year period or driving under the influence of alcohol or drugs twice or more in a year's period. The bill lists conditions under which this suspension can be waived.

The bill would amend current state law so as to require the insurance commissioner to take into account investment income and profits of insurers from all sources in approving auto insurance rates and determining whether final rates or premium charges are adequate and not excessive or unfairly discriminatory. The bill also prohibits insurers from claiming a reduced profit under these provisions by artificially allocating funds to salaries, dividends or other payouts to reduce profit or by failing to include all sources of income. Any insurer's profit exceeding 10 percent per annum would be refunded to its insureds, though the amount of the refund could be reduced if the insurer demonstrates that the full refund would cause extreme and compelling hardship to the effect that the insurer could not continue to do business. An insurer's request for a rate or premium increase could be denied by taking into account as factors the insurer's inefficiency, or sufficient profit to the effect that a rate or premium increase is not in the public's best interest.

All coverages written by an insurer for an insured's individual passenger automobile would be written under one policy. The Reinsurance Facility would cease operations no later than July 1, 1996, and on the effective date of this act the insurance commissioner would approve a 10 percent reduction in rate or premium charges used by auto insurers.

Nothing under these provisions could be construed to eliminate the mandate imposed on auto insurers engaged in business in this state to write insurance for all or to eliminate compulsory insurance for all drivers and compliance with the Financial Responsibility Act. Nor could these provisions be construed to eliminate the requirement that self-insured plans approved by the insurance commissioner comply with the Financial Responsibility Act.

**Licensing of Accountants** (H. 3657, Rep. Wilkes). Under this bill, any provisions applying to partnerships under state law regulating accountants which require certain qualifications or requirements of a partner(s) also would apply to member(s) of a professional corporation. Anyone licensed as a certified public accountant, public accountant or accounting practitioner could practice and operate in any form or manner as provided by law. The bill also would allow a candidate seeking certification as a public accountant to meet the certification's experience requirement through 5 years experience teaching accounting in a college or university, or a combination of this experience, or a combination of this experience and accounting experience in public, governmental or private employment. The bill lists conditions under which the Board of Accountancy may issue a certificate to a person who holds a certificate of public accounting or its equivalent issued in another state or territory of the United States or the



District of Columbia. The bill also lists conditions under which the Board may waive the examination requirement for CPA and issue a certificate to a holder of a certificate issued in a foreign country. Registered certified public accountants, public accountants or accounting practitioners wishing to continue their practice in South Carolina would have to file annually, as currently opposed to biennially, with the Board a certificate of compliance with continuing education requirements necessary for license renewals.

The bill expands the conditions under which the Board may revoke or suspend the certificates of certified public accountants or licenses of public accountants or fine or limit the practice of those engaged in these occupations. The Board also would be authorized to issue requirements on the holder of a certificate or license in lieu of or in addition to penalties the Board may issue under these provisions. Additionally, the Board may require the certificate holder or licensee to pay the costs of a proceeding in which a penalty or requirement is imposed. The bill also expands the list of conditions under which the Board could suspend the license or permit of an accounting practitioner or otherwise penalize the person holding the license or permit.

The bill lists circumstances under which a person or entity may bring an action against an accountant or firm of accountants out of a claim that the person or entity has been injured as a result of financial statements compiled or otherwise reported by the defendant accountant. The bill also lists provisions governing the awarding of monetary damages to a person injured by an accountant's practice

**Bare Bones Health Insurance Policies** (H. 3661, Rep. Wilkins). This bill would allow insurers authorized to transact business in South Carolina to issue "bare bones" health insurance policies. The bill states that these policies must conform to current requirements relating to issuance of accident and health insurance, individual accident and health policies, and group accident and health insurance. The bill also lists coverage which "bare bones" policies are not required to provide. These policies would be allowed to contain provisions for reasonable co-payments, deductibles and out-of-pocket maximums as may be approved by the Insurance Commissioner.

**Reimbursement for Members of Governing Bodies of Special Purpose or Public Service Districts** (H. 3663, Rep. Neilson). This bill would provide for members of governing bodies of special purpose or public service districts to be reimbursed only for expenses actually incurred while on official business. Reimbursement would not exceed the amounts authorized for members of state boards, committees or commissions. The bill also deletes the requirements that insurance benefits for members of the governing body not exceed those provided for state employees and that per diem not exceed \$35 per day. The governing body would be allowed to set per diem for its members.



**Mortgage Loan Brokers** (H. 3664, Rep. Quinn). This bill amends current law governing the registration and regulation of mortgage loan brokers. Under this bill, no person or organization would be allowed to perform mortgage loan brokerage services which do not comply with the federal Real Estate Settlement Procedures Act. The bill also redefines and adds terms governing mortgage loan brokers. The amount of cash, security or bond required to be deposited and maintained by a person or organization before being allowed to offer or agree to offer loan brokerage services would be raised from \$5,000 to \$10,000. Conditions are listed under which the Department of Consumer Affairs may refuse to register an applicant seeking to become a registered mortgage loan broker or refuse to renew the registration of a mortgage loan broker.

The bill also lists record-keeping requirements for those who register as mortgage loan brokers under these provisions and allows the Department at its discretion to examine the records of registrants to ensure compliance with the State's Mortgage Loan Broker Registration Act. Mortgage brokers doing business in South Carolina also would be required to maintain records. Mortgage loan brokers would be prohibited from collecting any 3rd party fees before a loan commitment is obtained by the broker, except for normal processing expenses associated with the making of mortgage loans authorized by the Department. Nor could mortgage loan brokers engage in recasting unless the applicant obtains the advice and counsel of a licensed attorney who is independent to the transaction. The bill defines recasting and lists information which an applicant for recasting must provide. The bill deletes the prohibition against a mortgage loan broker retaining a fee paid to him by a borrower when a loan is not procured within the time specified by the loan broker at the rate, term and overall cost agreed to by the broker and the borrower.

A broker also would be required within 3 business days of the receipt of an application for a loan to disclose in a statement the total estimated charges to the borrower for the loan and an itemization of the charges provided if required under the 1974 Real Estate Settlement Procedures Act. The bill lists conditions which must be met for a person to earn a mortgage broker's fee and states that all fees earned for services rendered as a mortgage broker must be disclosed to the applicant by the mortgage broker.

The Department of Consumer Affairs would be allowed to temporarily or permanently revoke the registration of a mortgage loan broker if he had intentionally or repeatedly engaged, as currently opposed to engaged, in conduct in violation of the state's Mortgage Loan Broker Act. The bill adds the condition that the revocation could be issued only after reasonable notice had been provided to the broker and the broker has had the opportunity to be heard by the Department. The Department also would be authorized to impose administrative fines on persons violating the state's Mortgage Loan Broker Act, with fines not exceeding \$500 for each offense or not more than \$5,000 for repeating the same offense. Each violation would constitute a separate offense.



Those seeking registration as a mortgage loan broker for the first time would be required to pay a one-time, nonrefundable processing fee of \$200. This would be in addition to the initial registration fee of \$500 as currently required by law. Registration would be for 1 year, and registrations issued under these provisions would expire every September 30. The Department would cancel the registration of a broker who fails to renew his registration within 30 days of its expiration date, though a registration could be renewed after the 30-day grace period if the renewal is accompanied by a late penalty of \$250, in addition to the regular \$500 registration renewal fee.

**Prohibited Activities under State Procurement Code** (H. 3667, Rep. Harrison). Under this bill, no construction manager performing construction management services for a contract awarded under the state's procurement code could perform other work on the project as a contractor or subcontractor. This prohibition applies if the manager seeks to perform other work directly or through a business in which he or his firm has more than a 5 percent interest. Safety compliance and other incidental construction support activities performed by the construction manager would not be considered work performed as a contractor or subcontractor. If the construction manager performs or is responsible for safety compliance and other incidental construction support activities, and these activities are in non-compliance with rules and regulations promulgated by the State Labor Commissioner, then the construction management firm would be subject to all applicable fines and penalties.

The bill also prohibits an architectural or engineering firm, or a combination of both firms, and a construction management firm from having a vested interest in the other's business. This prohibition would also apply to these firm's employees.

**Foster Care Regulations and Standards** (H. 3669, Rep. Kirsh). This bill would prohibit a child from being placed in foster care with a person with a substantiated history of child abuse or neglect, or who has pled guilty or nolo contendere or been convicted of an offense against a person, an offense against morality or decency, or of contributing to the delinquency of a minor. The Department of Social Services would establish standards for foster parent training so as to ensure uniform preparedness for foster parents who care for abused or neglected children in the custody of the State. The Department also would be required to conduct a detailed audit of every local county office at least once every 2 years. The Department would prepare a detailed report of its findings, including and proposals to rectify deficiencies noted in the audit, and submit a final report to the Governor, Lieutenant Governor, members of the respective county legislative delegations, the Joint Legislative Committee on Children, and the county Advisory Board of Social Services. The final and all draft audit reports would be public information. If the Department fails to conduct at least biennially these audits of county offices, this would be considered nonfeasance in office by the State Commission,



would be cause for the commissioner's removal, and would subject the commissioner to penalties for nonfeasance.

Under this bill, the State Children's Bureau, and rescue missions or other similar charitable organizations formed prior to 1959, no longer would be exempt from licensure by the Department of Social Services. Also, foster care facilities which do not receive state or federal financial assistance and which are operated by a local church congregation or established religious denomination, religious college or university would be required to register with the Department. These specified foster care facilities also would be required to report the number of children kept at their facility with the Department by January 2 each year, and would be required to pass annual inspections by state or local authorities for compliance with fire, health and sanitation requirements.

**Approval of Financial Transactions by the State Board of Financial Institutions** (H. 3679, Rep. Haskins). This bill would prohibit the Board of Financial Institutions from approving bank acquisitions by bank holding companies which would result in future economic loss to the general economy and capital resources of South Carolina. In making the determination that the acquisition(s) would have this negative impact, the Board of Financial Institutions would consult with the Budget and Control Board. The bill lists information submitted by the applicant seeking acquisition(s) which may be considered by the Board in making this determination and allows the Board to enter into contractual agreements with the applicant as to future economic activities and ensure full compliance with the provisions of these agreements.

**Regulation of Staff Leasing Services** (H. 3689, Rep. Wilkes). This bill would prohibit anyone from engaging in or offering staff leasing services without holding a license issued by the State Department of Consumer Affairs. The bill defines "staff leasing services" and lists 2 types of licenses---a staff leasing services company license and a staff leasing services group license. The bill also lists licensing requirements and qualifications necessary to serve as a controlling person of a license. Licenses would be valid for 2 years. Fees for obtaining or renewing a license are listed, and the Department is authorized to levy a biannual assessment for each staff leasing services company and group for the purpose of covering regulation costs under these provisions and other applicable provisions of law. The bill lists the amount of the fees, which vary according to the gross South Carolina payroll of a staff leasing services company's or staff leasing services group's clients. Information required in a contract between a licensee and a client company is listed. The Department would be allowed to issue a restricted license to a nonresident staff leasing services company or staff leasing services group for limited operation within South Carolina, under conditions as listed in the bill.

A licensee would be required to disclose to the Department, each client company, and its assigned employees information



relating to any insurance or benefit plan provided for the benefit of its assigned employees. A licensee could choose to obtain workers' compensation coverage in the same manner as any other employer and could also sponsor and maintain employee benefit plans for the benefit of assigned employees. No licensee would be allowed to conduct business under a name other than that specified in the license, but a licensee could change its licensed name by notifying the Department and paying a fee not exceeding \$50. No license issued under these provisions would be assignable. A licensee would be required to notify the Department of a change in the location of his primary business office; the addition of more business offices; or a change in the location of business records maintained by the licensee.

Anyone engaging in staff leasing services without a license as required under these provisions, or who unlawfully uses or misrepresents a license, and willingly and voluntarily violates these provisions would be guilty of a misdemeanor. Upon conviction, the person would be imprisoned not more than 1 year, fined not more than \$50,000, or both.

The bill lists conditions under which the Department may take disciplinary action against a licensee and lists action the Department may take upon finding that a licensee has violated one or more of those conditions. The bill would not exempt a client of a licensee or an assigned employee from any other license requirements imposed under local, state or federal law.

### **Medical, Military, Public and Municipal Affairs**

**Adoption Restrictions** (H. 3649, Rep. Fair). This bill would prohibit a child from being placed for adoption or in foster care with a person who is homosexual or bisexual; who is identified as the perpetrator of abuse or neglect in an indicated case; or who has pled guilty or nolo contendere to or who has been convicted of criminal sexual conduct or a crime which would be considered child abuse.

**Disinterment and Reinterment of a Dead Body** (H. 3650, Rep. Kirsh). This bill permits a local registrar to authorize the disinterment and reinterment of a dead body. Authorization would be granted upon receipt of a written application signed by the surviving spouse, or, if there is no spouse, the next of kin, along with the signatures of the owner of the cemetery plot and the person in charge of disinterment. As an alternative, an order of a court of competent jurisdiction could direct the registrar to authorize the disinterment.

**Collection of Health Care Information** (H. 3660, Rep. Wilkins). This bill would require the Division of Research and Statistical Services to collect, analyze and make available for public review in a nonidentifying manner the total public and private health care



expenditures rendered in all settings. This bill would not apply to expenditures for inpatient hospital care, which currently are required by state law. The bill lists reporting requirements for outpatient services.

**Confidentiality of Reports of Child Abuse and Neglect** (H. 3666, Rep. Neal). Under this bill, all reports of child abuse and neglect telephoned to a county department of social services or law enforcement agency must be recorded. The identity of the person would be confidential, except under circumstances as listed under the bill.

**Hospital Financial Reporting Requirements** (H. 3678, Rep. Houck). This bill would require hospitals to provide the Division of Research and Statistical Services of the Budget and Control Board with financial information. This information would detail the hospital's assets, liabilities and net worth and also include statements of income, expenses, profits and leases. Hospitals would file this information with the Division at the end of its fiscal year, at least 120 days following merger or consolidation, or at any interval set by the Division.

Data collected under these provisions would not be subject to the Freedom of Information Act and could only be released upon request of a member of the General Assembly. A member of the General Assembly would be prohibited from releasing this information. A hospital failing to comply with these provisions or regulations promulgated by the Division would be subject to penalties in accordance with regulations promulgated by the Division.

**Precautions for Invasive Procedures** (H. 3683, Rep. Fair). Under this bill, a person upon whom an invasive, exposure prone procedure is scheduled to be performed would be required to know his HIV antibody, Hepatitis B and Hepatitis E status and disclose the status to the health care professionals rendering care so that precautionary measures can be taken. If the person does not know his condition, he would be required to have his blood tested for presence of HIV or Hepatitis so as to protect health care professionals rendering care.

**Adoption by Nonresidents** (H. 3693, Rep. Vaughn). This bill would add another condition under which a nonresident of this state could adopt a child present in South Carolina, so as to allow a nonresident to adopt a child if the child has been in foster care for 6 months after required consents have been obtained and no South Carolina resident has been identified as a prospective adoptive home.



## **Ways and Means**

**African-American Heritage Council** (H. 3648, Rep. Kennedy). This joint resolution directs the South Carolina Department of Archives and History to establish a South Carolina African-American Heritage Council. The purpose of the Council would be to assist and enhance the efforts of the Department in preserving and promoting historic buildings, structures and sites reflecting South Carolina's African-American heritage. The bill lists the activities the Council would undertake in fulfilling its purpose and provides for the organization and funding of the Council. The Council would terminate on June 1, 1998 unless extended by the General Assembly.

**South Carolina Recreational Trail Advisory Board** (H. 3652, Rep. Barber). This bill would create the South Carolina Recreational Trail Advisory Board. The board would review utilization of funds received by the State for recreational trail purposes and give advice and make recommendations to appropriate state and local agencies and the General Assembly on matters concerning recreational trails in South Carolina. The bill provides for the board's membership and states that the executive director of the Department of Parks, Recreation and Tourism, or his designee, serves as chairman of the board. Board members would serve without compensation, although board members who are not full-time State employees or officers would receive per diem, mileage and subsistence, as provided by law for members of boards, commissions and committees, from the State's general fund.

On an annual basis, the South Carolina Tax Commission would estimate the revenues from taxes imposed by the State on non-highway recreational fuel. The Department of Highways and Public Transportation would set aside an amount equal to the estimated tax imposed on nonhighway recreational fuel in a separate account within the state highway fund. The Department would transfer this account's funds on a quarterly basis to the state agency appointed by the governor to administer monies received pursuant to the Symms National Recreational Trails Act of 1991.

**Higher Deduction for Retirement Income** (H. 3653, Rep. Cromer). This bill would allow a taxpayer for purposes of paying state income tax to deduct, on an annual basis, up to \$6,000 in retirement income upon reaching age 62.

**Free Use of State Parks by Disabled Veterans** (H. 3662, Rep. Keyserling). This bill amends current state law so as to allow a resident of South Carolina who is a veteran with at least a 50 percent disability to enter a state park free or charge. Under current law, the veteran qualifies for free admission only if he is classified as permanently and totally disabled.

**Teaching Service Credit for Retirement** (H. 3680, Rep. Neilson). This bill would allow a public school teacher member of the South Carolina Retirement System to establish service credit



for time teaching as a certified teacher in a private school in this state. This credit would be established in the same manner that credit may be established for out of state service. Payment for this service, however, may not be less than the full actuarial cost of service credit established. The bill defines private schools.

**Adjustment of Homestead Exemption** (H. 3694, Rep. Rudnick). This bill would require that the homestead exemption amount be adjusted annually for inflation. This exemption would be adjusted in the same manner that income tax brackets are adjusted under the 1986 Internal Revenue Code. The exemption amount as adjusted applies in place of the amount provided under current law for the next tax year. The Comptroller General would calculate the adjustment and notify the county auditors of the adjusted amount. This inflation adjustment would first be made for the exemption amount applicable for the 1994 tax year.

**Indigent Defense in Capital Cases** (H. 3702, Rep. Hutson). This bill amends state law as pertains to indigent defense. A fee of \$5 would be imposed on every person who is convicted of or pleads guilty to or nolo contendere to an offense in general sessions court or magistrate's or municipal courts, except for a nonmoving traffic offense. This fee would be collected for use for the defense of indigents in capital cases. The bill lists the procedure for collecting and depositing these fees. If a defendant in a capital case is unable to afford an attorney, the court would appoint one attorney instead of 2 attorneys as currently required by law, and the attorney appointed for the defendant would not have to be the public defender or a member of his staff.

The bill deletes the \$5,000 cap on funds appropriated for indigent defense during a single trial and states that fees and costs amounting up to \$10,000 need not be approved by the court before completion of the trial. However, fees and costs in excess of \$10,000 anticipated by the defense would have to be submitted to the court for review and validation before the trial is completed. The bill lists the procedure for conducting the review and states that payment as awarded by the court must be from funds generated for the defense of indigents. The \$2,500 cap on state funds which may be appropriated for other services necessary for representation of the defendant also is deleted.

Under this bill, the Supreme Court, through Court Administration, would promulgate a list of standard fees and expenses for use in the defense of indigents. The list would be reviewed biennially and adjusted as necessary by Court Administration. Additionally, the \$10,000 threshold under these provisions would be reviewed every 5 years and adjusted as necessary by Court Administration.



**Without Reference**

**Issuance and Renewal of Driver's License** (H. 3676, Rep. Sheheen). This bill lists circumstances under which the Department of Highways and Public Transportation may not renew a person's driver's license. The bill also would allow the Department to issue driver's licenses to foreign students present in the United States on a student visa. Other foreigners also could be issued a driver's license by the Department, but only if their country has entered into a reciprocal agreement with South Carolina governing driver's licenses.

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